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APPLICATION NUMBER	FLING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/113,924	07/09/98	BRIGSTOCK	D 08766/003002

HM12/0929

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ART UNIT	PAPER NUMBER

1646 7

DATE MAILED: 09/29/98

This is a communication from the examiner in charge of your application.  
 COMMISSIONER OF PATENTS AND TRADEMARKS

#### OFFICE ACTION SUMMARY

- Responsive to communication(s) filed on \_\_\_\_\_
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1835 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 1-3 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-3 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been
  - received.
  - received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of Reference Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). 5
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

**Part III: Detailed Office Action**

Claims 1-3 are pending and under consideration.

**Formal Matters:**

5        The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Specifically, the title should clearly reflect that the claims are to antibodies, and not to HBGF itself.

10      The disclosure is objected to because of the following informalities. Appropriate correction is required for *each* listed item:

- The disclosure must be amended to refer to related applications at page 1§1 of the specification.

**Objections and Rejections under 35 U.S.C. §112:**

15      The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

20      Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because it is not clear to what the final phrase "and which binds with immunoreactive fragments thereof" refers, nor what limitation it implies (above and beyond that of the first line of the claim). Further, part (c) of the claim ends in a period; a claim should consist of a single sentence only.

25      Claims 2 and 3 are indefinite for depending from an indefinite claim.

**Rejections Over Prior Art:**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- 5 (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Grotendorst et al., U.S. Patent Number 5,408,040. Grotendorst teaches antibodies which specifically bind to CTGF, but not to PDGF; see claims 2-4. By applicants admission at page 14 of the instant specification, 10 HBGF would reasonably be expected to be cross-reactive with anti-CTGF antibodies. While one would not necessarily expect *all* anti-CTGF antibodies to cross-react with HBGF, as HBGF is apparently a fragment of CTGF, one of ordinary skill in the art would nonetheless reasonably expect a reasonable number of anti-CTGF antibodies to react with HBGF. Accordingly, the instant claims appear to be anticipated by the antibodies disclosed and claimed by Grotendorst.

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**Advisory Information:**

No claim is allowed.

20 Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Lorraine M. Spector, whose telephone number is (703) 308-1793. Dr. Spector can normally be reached Monday through Friday, 8:00 A.M. to 4:30 P.M.

25 If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Paula Hutzell, Ph.D., can be reached at (703)308-4310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist at telephone number (703) 308-0196.

30 Certain papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers should be faxed to Group 1800 via the PTO Fax Center located in Crystal Mall 1 (CM1). The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). NOTE: If Applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing 35 of duplicate papers in the Office.

Serial Number 09/113924

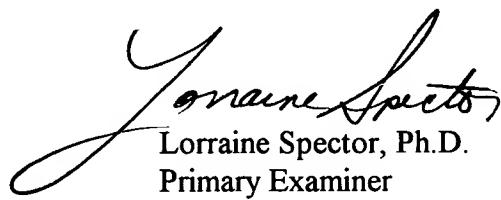
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Official papers filed by fax should be directed to (703) 305-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294. Please advise the Examiner at the telephone number above when an informal fax is being transmitted.

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Lorraine Spector  
Lorraine Spector, Ph.D.  
Primary Examiner

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